

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of )  
 EAST BAY WATER COMPANY, )  
 a corporation, for an order author- ) Application Number 8253.  
 izing issue of Class "A" Six (6)Per )  
 Cent. Cumulative Preferred Stock. )

McKee, Tasheira & Wahrhaftig,  
 by A. G. Tasheira, for Applicant.

MARTIN, COMMISSIONER:-

O P I N I O N

In this application, EAST BAY WATER COMPANY asks permission to issue and sell \$184,363.00 of its Class "A" six percent. cumulative preferred stock and to use the proceeds to reimburse its treasury for moneys to be used in making sinking fund payments.

Applicant has bonds outstanding which were issued under two mortgages, one being its first mortgage and the other its unifying and refunding mortgage. The first mortgage, dated January 1, 1916 to Union Trust Company of San Francisco, trustee, provides for a total authorized issue of \$15,000,000.00 of thirty year 5½ percent. bonds, of which \$14,714,800.00 are reported issued. Of the issued bonds, \$9,782,700.00 are held by the public and \$4,932,100.00 have been deposited with Mercantile Trust Company, as partial security for applicants' unifying and refunding mortgage bonds.

The unifying and refunding mortgage, dated September 1, 1921 to Mercantile Trust Company, trustee, secures an authorized issue of \$66,250,000.00 of bonds. The application shows that there are now outstanding in the hands of the public under this mortgage,

\$2,495,500.00 of fifteen year 7½ percent. bonds of Series "A", and \$3,000,000.00 of twenty year 6 percent. bonds of Series "B", a total of \$5,495,500.00.

The company reports that on January 1, 1923 it will be required to make sinking fund payments under its two mortgages as follows:-

To Union Trust Company under the first mortgage . . . . .	\$147,148.00
To Mercantile Trust Company under the unifying and refunding mortgage	<u>37,215.00</u>
TOTAL . . . . .	<u>\$184,363.00</u>

These payments to the trustees may be made in cash which will be used to retire outstanding bonds, or may be made in bonds. The company is now asking permission to refund such payments by the issue of a like amount of stock, is, in effect, asking permission to substitute preferred stock for bonds, a course which the Commission has heretofore authorized this company to take in Decision Number 9964, dated January 4, 1922.

In that decision the Commission recited that there was no objection to the refunding of funded debt through the issue of stock, provided the company's properties were reasonably capitalized. If the capitalization is in excess of the reasonable value of the properties, surplus earnings should be used to pay funded debt and no stock issued to reimburse the treasury because such earnings were used to meet sinking fund requirements.

I find that the capitalization of applicant's properties has changed little, if any, since the date of the Commission's decision and that therefore we may again properly permit of the refunding of sinking fund payments as requested.

The Commission, by Decision Number 9964, dated January 4, 1922 authorized applicant to sell \$300,000.00 of its Class "A" stock at not less than \$77.00 per share, and by Decision Number 9655, dated

October 27, 1921, to sell \$63,225.86 of such stock at not less than \$75.00 per share. The company reports that a portion of this stock was sold on installment payment plans and that it has received stock subscriptions amounting to \$12,600.00 par value in excess of the amounts it is authorized to deliver by those decisions. To fill these subscriptions the company asks that it be permitted to deliver 126 shares of the stock herein requested at the prices at which their purchase was originally contracted;—namely, fifty-eight shares at 80, ten shares at 82, fifty-six shares at 83 and two shares at 86. As to the remaining stock herein applied for, the company requests that it be permitted to sell it at not less than \$87.00 per share net.

I herewith submit the following form of order;—

O R D E R

EAST BAY WATER COMPANY, having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED that East Bay Water Company be, and it is hereby, authorized to issue and sell \$184,363.00 of its Class "A" six percent. cumulative preferred stock and to use the proceeds to reimburse its treasury for moneys used in making the sinking fund payments referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:—

(1) Of the stock herein authorized, fifty-eight shares may be sold at not less than \$80.00 per share; ten shares at not less than \$82.00 per share; fifty-six shares at not less than \$83.00 per share; and two shares at not less than \$86.00 per share. The remaining stock herein authorized shall be sold

at not less than \$87.00 per share net.

(2) Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the 25th day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted shall apply only to such stock as may be issued and sold on or before June 30, 1923.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

DATED at San Francisco, California, this 5th day of October, 1922.

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*Erving M. ...*  
*Charles H. ...*  
*J. ...*  
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Commissioners.